

Message Text

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ORIGIN OPIC-12

INFO OCT-01 EB-11 ARA-16 L-03 ISO-00 IGA-02 AID-20 COME-00

TRSE-00 CIEP-02 /067 R

CHARGE OPIC

DRAFTED BY OPIC/GC:JROFFUTT
APPROVED BY EB/IFD/OIAMKENNEDY
ID/LA/AFR:BTMANSBACK (SUBS)
OPIC/ID:EEWRIGHT
E/IFD/OIA:WHCOURTNEY (INFO)
ARA/BC/B:JRBINNS
OPIC/D:RPOATS
L/ARA:TABOREK
OPIC/LA/AFR:JGURR (SUBS)
L/EB:JDMUIR
EB:IFD/OIA:FWMAERKLE

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R 140015Z DEC 73
FM SECSTATE WASHDC
TO AMEMBASSY LA PAZ
INFO AMEMBASSY LIMA

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E.O. 11652: N/A
TAGS: EFIN, BL
SUBJ: OPIC PROGRAMS IN BOLIVIA

REF: (A) STATE 205551
(B) LA PAZ 6389

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1. THE DEPARTMENT AND OPIC AGREE WITH THE EMBASSY'S DESIRE
TO BE AS EXPLICIT AS POSSIBLE REGARDING CONFIRMATION OF
OPIC'S SUBROGATION AND INTERNATIONAL ARBITRATION RIGHTS IN

BOLIVIA. IT IS PROPOSED THAT CONFIRMATION BE OBTAINED THROUGH EXCHANGE OF DIPLOMATIC NOTES. THEREFORE, THE EMBASSY IS REQUESTED TO FORWARD TO THE GOB THE FOLLOWING NOTE:

QUOTE EXCELLENCY:

I HAVE THE HONOR TO REFER TO THE AGREEMENT EFFECTED BY THE EXCHANGE OF NOTES OF SEPTEMBER 23, 1955, AND MARCH 4, 1964, BETWEEN OUR TWO GOVERNMENTS RELATING TO INVESTMENT GUARANTIES WHICH MAY BE ISSUED BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA FOR INVESTMENT ACTIVITIES IN BOLIVIA. YOUR GOVERNMENT HAS INDICATED THAT IT DOES NOT REGARD THE AFORESAID AGREEMENT TO BE INCONSISTENT WITH ITS OBLIGATIONS UNDER ARTICLE 51 OF DECISION 24 OF THE COMMISSION OF THE AGREEMENT OF CARTAGENA RELATING TO SUB-REGIONAL INTEGRATION. ACCORDINGLY, THE GOVERNMENT OF THE UNITED STATES RESPECTFULLY REQUESTS THAT THE GOVERNMENT OF BOLIVIA CONFIRM THAT ALL PROVISIONS OF THE REFERENCED EXCHANGE OF NOTES CONTINUE IN FULL FORCE AND EFFECT. UNQUOTE

2. UNLESS YOU PERCEIVE REASONS FOR NOT DOING SO, THE AMBASSADOR IS REQUESTED PERSONALLY TO PRESENT THE NOTE TO THE FOREIGN MINISTER, AND TO EXPLAIN THAT SUBMISSION OF THE DRESSER PROJECT FOR GOB APPROVAL WILL AWAIT A GOB REPLY TO THE DIPLOMATIC NOTE. YOU MIGHT REVIEW PROJECT WITH HIM, NOTING THAT IT APPEARS TO US A GOOD EXAMPLE OF AN INVESTMENT PROMOTING THE DEVELOPMENT OF THE BOLIVIAN MANUFACTURING SECTOR AND THE INTEGRATION OF THE ANDEAN PACT COUNTRIES, ESPECIALLY BOLSTERING THE CONCEPT OF THE SECTORAL PROGRAM APPROACH. HOPEFULLY, THE DRESSER PROJECT WILL SERVE AS AN INCENTIVE TO AN EARLY GOB RESPONSE.

3. OPIC DOES NOT FEEL IT NECESSARY FOR GOB TO UNILATERALLY SEEK A WAIVER OR INTERPRETATION OF ARTICLE 51 LIMITED OFFICIAL USE

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FROM THE COMMISSION. OPIC BELIEVES THAT ARTICLE 51 WAS INCLUDED IN THE ANCOM DRAFT BY JUNTA TECHNICIANS WITHOUT PREVIOUS REFERENCE TO COUNTRY DELEGATES, AND HAS FOUND IN CONVERSATIONS WITH HIGH-LEVEL ANCOM GOVERNMENT OFFICIALS THAT THEY ARE NOT AWARE OF UNCERTAINTIES CAUSED BY ARTICLE 51. ONE INTERPRETATION OF ARTICLE 51 IS THAT IT DOES NOT ABROGATE PRE-EXISTING INTERNATIONAL AGREEMENTS, SUCH AS OPIC BILATERALS, AND THIS INTERPRETATION WAS CONFIRMED IN ARTICLE 41 OF BOLIVIAN DECREE LAW NO. 10045 ON INVESTMENTS, DATED DECEMBER 10, 1971. SINCE

PENDING PROJECTS INCLUDING DRESSER ARE SMALL, AND ARTICLE 51 DISCUSSIONS ARE NOT IN AN ADVANCED STAGE IN ANY OTHER ANCOM COUNTRY AT THIS TIME, IT WOULD BE PREMATURE TO TRY TO ORGANIZE A CONCERTED EFFORT TO OBTAIN A COMMISSION INTERPRETATION OF ARTICLE 51. FYI: OPIC DISCUSSIONS WITH OTHER COUNTRIES MAY OCCUR IN NEAR FUTURE. END FYI.
RUSH

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: INVESTMENT GUARANTEES, INTERNATIONAL ARBITRATION, FOREIGN INVESTMENTS, DIPLOMATIC NOTES
Control Number: n/a
Copy: SINGLE
Draft Date: 14 DEC 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973STATE244320
Document Source: CORE
Document Unique ID: 00
Drafter: JROFFUTT
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19731224/aaaaarjl.tel
Line Count: 122
Locator: TEXT ON-LINE
Office: ORIGIN OPIC
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: (A) STATE 205551
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 16 JAN 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <16-Jan-2002 by martinjw>; APPROVED <11 MAR 2002 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: OPIC PROGRAMS IN BOLIVIA
TAGS: EFIN, BL, US, OPIC
To: LA PAZ
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005